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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/544,184  | 04/03/2006  | Masanobu Sato        | 1033622-000015      | 8134             |
| 21839 7590 12/08/2008<br>BUCHANAN, INGERSOLL & ROONEY PC<br>POST OFFICE BOX 1404<br>ALEXANDRIA, VA 22313-1404 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| AHMED, SHEEBA   |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 1794  |             |                      |                     |                  |
| NOTIFICATION DATE   |             | DELIVERY MODE        |                     |                  |
| 12/08/2008  |             | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

## Office Action Summary

**Application No.**

10/544,184

**Applicant(s)**

SATO ET AL.

**Examiner**

SHEEBA AHMED

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Reconsideration***

1. Applicants request for reconsideration after final rejection filed on November 25, 2008 has been entered in the above-identified application.

Applicants arguments with regards to the rejection of claims 1-3 and 5-14 under 35 U.S.C. 102(b) as being anticipated by Van Loon (US 6,503,637) have been considered and are persuasive. Hence, this rejection has been withdrawn.

However, upon further consideration a new rejection has been made and, therefore, the finality of the last Office Action is withdrawn.

Any inconvenience to the Applicants is regretted.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Loon (US 6,503,637).

Van loon discloses a film comprising a blend of: i) a homopolymer of ethylene or a copolymer of ethylene and up to 50% weight % of a C<sub>3</sub> to C<sub>20</sub> olefin; ii) a homopolymer of propylene or a copolymer of propylene and up to 50 weight % of a comonomer selected from the group consisting of ethylene and C<sub>4</sub> to C<sub>20</sub> alpha-olefins; and iii) a

polymer produced in a high pressure process using a free radical initiator. In a preferred embodiment, (i) a homopolymer of ethylene or a copolymer of ethylene and up to 50 weight %, one or more  $C_{3-20}$  olefins has a density of  $0.86 \text{ g/cm}^3$  to  $0.96 \text{ g/cm}^3$ . In a preferred embodiment the High Pressure Polymer is low density polyethylene having a density  $0.910$  to less than  $0.940 \text{ g/cm}^3$ . In a preferred embodiment the polyethylene (component (i)) is present in the blend at from 1 to 99 weight %, based upon the weight of the polymers in the blend, the polypropylene (component (ii)) is present in the blend at from 1 to 99 weight %, based upon the weight of the polymers in the blend, and the High Pressure Polymer (component (iii)) is present in the blend at from 1 to 50 weight %, based upon the weight of the polymers in the blend. The polymers can be mixed together prior to being put into an extruder or may be mixed or compounded in an extruder. The blend is typically formed into monolayer or multilayer films. These films may be formed by any of the conventional and in a preferred embodiment a film of the blend is used as a sealing layer. In another embodiment the blend layer is combined with one or more other layers. The other layer(s) may be any layer typically included in multilayer film structures. Further any of the above layers may be oriented before or after being combined with the blend layers. Additives such as antiblock, antioxidants, pigments, fillers, processing aids, UV stabilizers, neutralizers, lubricants, surfactants and/or nucleating agents may also be present in one or more than one layer in the films. Preferred additives include silicon dioxide, titanium dioxide, polydimethylsiloxane, talc, dyes, wax, calcium stearate, carbon black, low molecular weight resins, tackifiers, and glass beads. Column 5, lines 1-15 state

that the blends described above can also further include other polymers such as, high density polyethylene (density 0.945 to less than 0.98 g/cm.sup.3) and linear low density polyethylene,

Van loon fail to disclose that the high density polyethylene or the linear low density polyethylene are present in an amount of 10-85 wt. %.

However, it would have been obvious to one having ordinary skill in the art to optimize the amount of the high density polyethylene or the linear low density polyethylene in the blend given that the properties of the blend (and any film made therefrom), such as moisture impermeability, sealing behavior, optical properties, strength, and mechanical properties such impact strength, can be modified by varying the amount of each component of the blend.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEEBA AHMED whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheeba Ahmed/  
Primary Examiner, Art Unit 1794